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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,721	01/24/2001	Tatsuhiko Ikuta	1614.1115	3663
21171	7590	10/19/2005	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			ALPERT, JAMES M	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/767,721	IKUTA, TATSUHIKO
	Examiner	Art Unit
	James Alpert	3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 22 July 2005.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-13 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-13 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 4/8/2005

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

The following communication is in response to Applicant's amendment filed on July 22, 2005.

### ***Status of Claims***

Claims 7-8,12 are original. Claims 1-6, 9-11,13 are currently amended. No Claims are cancelled, and there are no new claims. Therefore, Claims 1-13 are currently pending.

### ***Response to Arguments***

Objections to the claims because of use of the phrase "properlity" are withdrawn in light of Applicant's amendments.

The rejections of Claims 2-5 under 35 U.S.C 101 are withdrawn in light of Applicant's amendments to the claims, and in light of the recent decision by the Board of Interferences and Appeals in Ex parte Lundgren, Appeal No. 2003-2088

Applicant's arguments filed July 22, 2005 have been fully considered but they are not persuasive as discussed below. In addition, Applicant's amendments to the claims have necessitated new grounds of rejection. Claims 1-13 remain rejected, while Applicant's request for allowance is respectfully declined.

### ***Claim Rejections - 35 USC § 103***

The text of 35 U.S.C. §103, which is not included in this action, can be found in a prior Office action. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michel et al, U.S. Patent 35625690 in view of Tanaka, U.S. Patent Application Publication #20020022971.

**With regard to Claims 1 and 2,** Michel teaches the system and method comprising:

reporting registration certification to an accounting server from a terminal device when contents to be charged for are accessed in said terminal device, which is previously registered in said accounting server; (Col. 4, lines 55-66)

confirming propriety of the reported registration certification, and performing fee charging; and (Col. 8, lines 14-32)

when the propriety of the registration certification is confirmed, reporting permission of access to the contents, from said accounting server to said terminal device, and making the contents accessible in said terminal device, (Col. 5, lines 4-29 describing a public/private key system for accessing contents) wherein:

Michel does not specifically teach a license file on the remote terminal with a central accounting server that performs identification authorizations and payment processing. However Tanaka teaches these limitations at (Page 9, Paras. 140-145), which describe the licensing system wherein a licensing client resides on remote terminals while a central server serves as a license server as well as an accounting server. When combined with the teaching Michel, relating to fee-per-use software, the following claims are anticipated:

when access is made to the contents, a license file in the terminal device is referred to, and, when the license file is determined to be valid, access to the contents is continued without accessing the accounting server, and

when the license file is not determined to be valid, access to the accounting server is carried out, notification of charging is made to the accounting server and, after the completion of the charging, access to the content is continued.

**With regard to Claims 3-13,** these claims have all been amended to reflect the two final limitations above that refer to a validity check on the license file resulting in either delivery of the content or access to the accounting server. To the extent that each

of claims 3-13 depend on Michel from the previous action, those portions of the previous rejections are maintained. To the extent that the claims have added the above-mentioned limitations, those claims are rejected based on the analysis above for Claims 1-2 related to Tanaka. In essence, Michel refers to a system for restricted access software system, while Tanaka discloses an accounting server and licensing of the software. A combination of the reference substantially discloses the invention as claimed by Applicant.

***Conclusion***

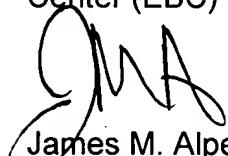
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Alpert whose telephone number is (571) 272-6738. The examiner can normally be reached on M-F 9:30-6:00. If attempts

to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.



James M. Alpert  
October 16, 2005

VINCENT MILLIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

